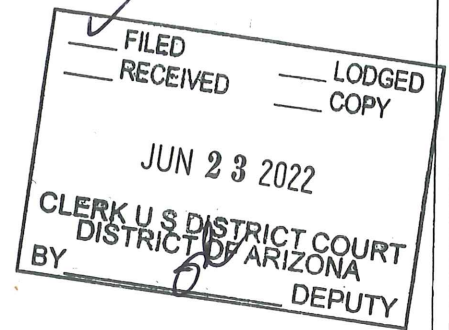


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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,
11 Plaintiff,

CR-22-00464-PHX-**JZB**

12 v.

PLEA AGREEMENT

13 Ruben Sebastian Felix-Escamilla,
14 Defendant.

15 Plaintiff, United States of America, and the defendant, Ruben Sebastian Felix-
16 Escamilla, hereby agree to dispose of this matter on the following terms and conditions:

17 **1. PLEA**

18 The defendant will plead guilty to an Information charging the defendant with a
19 violation of Title 18, United States Code (U.S.C.), Section 371, Conspiracy to Commit an
20 Offense Against the United States, namely, Bringing an Illegal Alien to the United States
21 in violation of 8 U.S.C. § 1324(a)(2)(A), a class A misdemeanor offense.

22 The defendant will also consent to the forfeiture allegation in the Information.

23 **2. MAXIMUM PENALTIES**

24 a. A violation of 18 U.S.C. § 371 for a conspiracy to commit a class A
25 misdemeanor offense is punishable by a maximum fine of \$100,000.00, a maximum term
26 of imprisonment of one year, or both a fine and a term of imprisonment, a maximum term
27 of supervised release of one year, and a maximum term of probation of five years.

28 b. According to the Sentencing Guidelines issued pursuant to the Sentencing

1 Reform Act of 1984, the Court shall order the defendant to:

2 (1) make restitution to any victim of the offense pursuant to 18 U.S.C.
3 § 3663 and/or 3663A, unless the Court determines that restitution would not be
4 appropriate;

5 (2) pay a fine pursuant to 18 U.S.C. § 3572, unless the Court finds that a
6 fine is not appropriate;

7 (3) serve a term of supervised release when required by statute (with the
8 understanding that the Court may impose a term of supervised release in all other cases);

9 (4) pay upon conviction a \$25 special assessment for each count to which
10 the defendant pleads guilty pursuant to 18 U.S.C. § 3013; and

11 (5) pay upon conviction an additional \$5,000 special assessment pursuant
12 to 18 U.S.C. § 3014(a), unless the Court determines that the defendant is indigent.

13 c. The Court is required to consider the Sentencing Guidelines in determining
14 the defendant's sentence. However, the Sentencing Guidelines are advisory, and the Court
15 is free to exercise its discretion to impose any reasonable sentence up to the maximum set
16 by statute for the crime(s) of conviction, unless there are stipulations to the contrary that
17 the Court accepts.

18 d. The defendant recognizes that pleading guilty may have consequences with
19 respect to defendant's immigration status if the defendant is a recently naturalized United
20 States citizen or is not a citizen of the United States. Under federal law, a broad range of
21 crimes are removable offenses, including the offense(s) to which defendant is pleading
22 guilty. Although there may be exceptions, the defendant understands that the defendant's
23 guilty plea and conviction for this offense make it practically inevitable and a virtual
24 certainty that the defendant will be removed or deported from the United States. The
25 defendant agrees that defendant has discussed this eventuality with defendant's attorney.
26 The defendant nevertheless affirms that defendant wants to plead guilty regardless of any
27 immigration consequences that this plea entails, even if the consequence is the defendant's
28 automatic removal from the United States.

1 **3. AGREEMENTS REGARDING SENTENCING**

2 a. Stipulation: Imprisonment. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the
3 United States and the defendant stipulate and agree that any sentence of imprisonment
4 imposed shall not exceed six months. This stipulation does not preclude the court from
5 imposing a probation sentence.

6 b. Presentence Investigation Report Waiver. The United States and the
7 defendant agree to waive the preparation of a presentence investigation report and agree
8 that sentencing may occur on the day of the change of plea hearing. However, the parties
9 understand and acknowledge that the Court may nevertheless order the preparation of a
10 presentence investigation report and set sentencing on a future date.

11 c. District Judge Waiver. The defendant understands and acknowledges that
12 the defendant has the right, pursuant to 18 U.S.C. § 3401, to trial, judgment and sentencing
13 by a district judge. The defendant expressly waives those rights and agrees to proceed
14 before a magistrate judge for change of plea and sentencing. In doing so, the defendant
15 also agrees to appear before a magistrate judge for any future proceedings involving
16 revocation of any probation or supervised release term imposed. The United States also
17 agrees to proceed before a magistrate judge. The parties understand that the Court may
18 nevertheless order the proceedings to take place before a District Judge.

19 **4. AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

20 a. Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States, at the time of
21 sentencing, shall dismiss the Indictment filed in this matter.

22 b. This agreement does not, in any manner, restrict the actions of the United
23 States in any separate investigations within the District of Arizona or other district, nor
24 does it bind any other United States Attorney's Office.

25 **5. COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION**

26 a. If the Court, after reviewing this plea agreement, concludes that any
27 provision contained herein is inappropriate, it may reject the plea agreement and give the
28

1 defendant the opportunity to withdraw the guilty plea in accordance with Fed. R. Crim. P.
2 11(c)(5).

3 b. If the defendant's guilty plea or plea agreement is rejected, withdrawn,
4 vacated, or reversed at any time, this agreement shall be null and void, the United States
5 shall be free to prosecute the defendant for all crimes of which it then has knowledge and
6 any charges that have been dismissed because of this plea agreement shall automatically
7 be reinstated. In such event, the defendant waives any and all objections, motions, and
8 defenses based upon the Statute of Limitations, the Speedy Trial Act, or constitutional
9 restrictions in bringing later charges or proceedings. The defendant understands that any
10 statements made at the time of the defendant's change of plea or sentencing may be used
11 against the defendant in any subsequent hearing, trial, or proceeding subject to the
12 limitations of Fed. R. Evid. 410.

13 **6. WAIVER OF DEFENSES AND APPEAL RIGHTS**

14 The defendant waives (1) any and all motions, defenses, probable cause
15 determinations, and objections that the defendant could assert to the indictment or
16 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
17 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
18 judgment against the defendant, or any aspect of the defendant's sentence, including the
19 manner in which the sentence is determined, including but not limited to any appeals under
20 18 U.S.C. § 3742 (sentencing appeals) and motions under 28 U.S.C. §§ 2241 and 2255
21 (habeas petitions), and any right to file a motion for modification of sentence, including
22 under 18 U.S.C. § 3582(c) (except for the right to file a compassionate release motion under
23 18 U.S.C. § 3582(c)(1)(A) and to appeal the denial of such a motion). This waiver shall
24 result in the dismissal of any appeal, collateral attack, or other motion the defendant might
25 file challenging the conviction, order of restitution or forfeiture, or sentence in this case.
26 This waiver shall not be construed to bar an otherwise-preserved claim of ineffective
27 assistance of counsel or of "prosecutorial misconduct" (as that term is defined by Section
28 II.B of Ariz. Ethics Op. 15-01 (2015)).

1 **7. DISCLOSURE OF INFORMATION**

2 a. The United States retains the unrestricted right to provide information and
3 make any and all statements it deems appropriate to the U.S. Probation Office and to the
4 Court in connection with the case.

5 b. Any information, statements, documents, and evidence that the defendant
6 provides to the United States pursuant to this agreement may be used against the defendant
7 at any time.

8 c. If a presentence investigation report is ordered by the Court, the defendant
9 shall cooperate fully with the U.S. Probation Office. Such cooperation shall include
10 providing complete and truthful responses to questions posed by the U.S. Probation Office
11 including, but not limited to, questions relating to:

- 12 (1) criminal convictions, history of drug abuse, and mental illness; and
13 (2) financial information, including present financial assets or liabilities
14 that relate to the ability of the defendant to pay a fine or restitution.

15 **8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

16 a. Nothing in this agreement shall be construed to protect the defendant from
17 administrative or civil forfeiture proceedings or prohibit the United States from proceeding
18 with and/or initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all
19 monetary penalties, including restitution imposed by the Court, shall be due immediately
20 upon judgment, shall be subject to immediate enforcement by the United States, and shall
21 be submitted to the Treasury Offset Program so that any federal payment or transfer of
22 returned property the defendant receives may be offset and applied to federal debts (which
23 offset will not affect the periodic payment schedule). If the Court imposes a schedule of
24 payments, the schedule of payments shall be merely a schedule of minimum payments and
25 shall not be a limitation on the methods available to the United States to enforce the
26 judgment.

27 b. The defendant agrees to forfeit, and hereby forfeits, all interest in any asset
28 that the defendant owns or over which the defendant exercises control, directly or

1 indirectly, as well as any property that is traceable to, derived from, fungible with, or a
2 substitute for property that constitutes the proceeds of the offense(s), or which was used to
3 facilitate the commission of the offense(s), including the following property:

4
5 Gray 2016 Nissan Maxima, VIN: 1N4AL3AP8GN382113, bearing Arizona
6 license plate number T4A50G.

7
8 c. The defendant further agrees to waive all interest in any such asset in any
9 administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal.
10 The defendant agrees to consent to the entry of orders of forfeiture for such property and
11 waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding
12 notice of the forfeiture in the charging instrument, announcement of the forfeiture at
13 sentencing, and incorporation of the forfeiture in the judgment. The defendant further
14 understands and agrees that forfeiture of the assets is appropriate and in accordance with
15 the applicable forfeiture statutes, which may include 8 U.S.C. § 1324(b), 18 U.S.C.
16 §§ 924(d), 981, 982 and 2253, 21 U.S.C. §§ 853 and 881, and 28 U.S.C. § 2461(c).

17 d. Forfeiture of the defendant's assets shall not be treated as satisfaction of any
18 fine, restitution, cost of imprisonment, or any other penalty this court may impose upon the
19 defendant in addition to forfeiture. This agreement does not preclude the United States
20 from instituting any civil or administrative forfeiture proceedings as may be appropriate
21 now or in the future.

22 e. The defendant agrees to waive all constitutional and statutory challenges in
23 any manner (including direct appeal, habeas corpus, double jeopardy or any other means)
24 to any forfeiture imposed as a result of this guilty plea or any pending or completed
25 administrative or civil forfeiture actions, including that the forfeiture constitutes an
26 excessive fine or punishment. The defendant agrees to take all steps as requested by the
27 United States to pass clear title to forfeitable assets to the United States, and to testify
28 truthfully in any judicial forfeiture proceeding. The defendant acknowledges that all

1 property covered by this agreement is subject to forfeiture as proceeds of illegal conduct,
 2 property facilitating illegal conduct, and substitute assets for property otherwise subject to
 3 forfeiture, and that no other person or entity has a legitimate claim to these items listed.

4 f. The defendant agrees not to file a claim to any of the listed property in any
 5 civil proceeding, administrative or judicial, which may be initiated. The defendant further
 6 agrees that he/she will not contest civil, administrative or judicial forfeiture of the listed
 7 property. The defendant agrees to waive his/her right to notice of any forfeiture proceeding
 8 involving this property, and agrees not to file a claim or assist others in filing a claim in
 9 that forfeiture proceeding.

10 g. The government reserves its right to proceed against any remaining assets
 11 not identified either in this agreement or in any civil actions which are being resolved along
 12 with this plea of guilty, including any property in which the defendant has any interest or
 13 control, if said assets, real or personal, tangible or intangible were involved in the
 14 offense(s).

15 h. The defendant hereby waives, and agrees to hold the government and its
 16 agents and employees harmless from any and all claims whatsoever in connection with the
 17 seizure, forfeiture, and disposal of the property described above. Without limitation, the
 18 defendant understands and agrees that by virtue of this plea of guilty, the defendant will
 19 waive any rights or cause of action that the defendant might otherwise have had to claim
 20 that he/she is a "substantially prevailing party" for the purpose of recovery of attorney fees
 21 and other litigation costs in any related civil forfeiture proceeding pursuant to 28 U.S.C.
 22 § 2465(b)(1).

23 **9. ELEMENTS**

24 **Conspiracy to Commit an Offense Against the United States, Namely, Bringing an** 25 **Illegal Alien to the United States**

26 Beginning on an unknown date and continuing up to and including April 14, 2022,
 27 in the District of Arizona and elsewhere:
 28

- 1 1. The defendant and others did willfully agree and conspire with each other to
- 2 commit an offense against the United States, namely, Bringing Illegal Aliens
- 3 to the United States;
- 4 2. The defendant became a member of the conspiracy knowing of its object and
- 5 intending to help accomplish it; and
- 6 3. One of the members of the conspiracy performed at least one overt act for
- 7 the purpose of carrying out the conspiracy.

8 The underlying offense of Bringing an Illegal Alien to the United States requires
9 proof of the following:

- 10 1. A person brought or attempted to bring an alien to the United States; and
- 11 2. The person knew or acted in reckless disregard of the fact that the alien had
- 12 not received prior official authorization to come to, enter, or reside in the
- 13 United States.

14 **10. FACTUAL BASIS**

15 a. The defendant admits that the following facts are true and that if this matter
16 were to proceed to trial the United States could prove the following facts beyond a
17 reasonable doubt:

18 On April 14, 2022, I, Ruben Sebastian Felix-Escamilla, was the driver of a
19 vehicle which contained passengers. My vehicle was stopped by law
20 enforcement near Casa Grande, Arizona. At the time I was stopped, I was
21 transporting aliens in my vehicle who were not citizens or nationals of the
22 United States and whom I knew had not received prior authorization to come
23 to, enter, or reside in the United States. Two of those aliens was Gerardo
24 Lino-Chino and Santos Quinteros-Ines.

25 On or before April 14, 2022, my co-conspirators in Mexico brought these
26 aliens across the Mexican border into the United States knowing they did not
27 have authorization to come to, enter, or reside in the United States. I agreed
28 to transport the aliens on April 14, 2022, and I knew that by doing so I was
 helping to further this alien smuggling conspiracy by moving them further
 into the United States.

1 b. The defendant shall swear under oath to the accuracy of this statement and,
2 if the defendant should be called upon to testify about this matter in the future, any
3 intentional material inconsistencies in the defendant's testimony may subject the defendant
4 to additional penalties for perjury or false swearing, which may be enforced by the United
5 States under this agreement.

6 **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

7 This agreement has been read to me in Spanish, and I have carefully reviewed every
8 part of it with my attorney. I understand it and I voluntarily agree to it.

9 I have discussed the case and my constitutional and other rights with my attorney.
10 I understand that by entering my plea of guilty I shall waive my rights to plead not guilty,
11 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to
12 present evidence in my defense, to remain silent and refuse to be a witness against myself
13 by asserting my privilege against self-incrimination, all with the assistance of counsel, and
14 to be presumed innocent until proven guilty beyond a reasonable doubt.

15 I agree to enter my guilty plea as indicated above on the terms and conditions set
16 forth in this agreement.

17 I have been advised by my attorney of the nature of the charges to which I am
18 entering my guilty plea. I have further been advised by my attorney of the nature and range
19 of the possible sentence and that my ultimate sentence shall be determined by the Court
20 after consideration of the advisory Sentencing Guidelines.

21 My guilty plea is not the result of force, threats, assurances, or promises, other than
22 the promises contained in this agreement. I voluntarily agree to the provisions of this
23 agreement and I agree to be bound according to its provisions.

24 I understand that if I am granted probation or placed on supervised release by the
25 Court, the terms and conditions of such probation/supervised release are subject to
26 modification at any time. I further understand that if I violate any of the conditions of my
27 probation/supervised release, my probation/supervised release may be revoked and upon
28

1 such revocation, notwithstanding any other provision of this agreement, I may be required
2 to serve a term of imprisonment or my sentence otherwise may be altered.

3 This written plea agreement, and any written addenda filed as attachments to this
4 plea agreement, contain all the terms and conditions of the plea. Any additional
5 agreements, if any such agreements exist, shall be recorded in a separate document and
6 may be filed with the Court under seal; accordingly, additional agreements, if any, may not
7 be in the public record.

8 I further agree that promises, including any predictions as to the Sentencing
9 Guideline range or to any Sentencing Guideline factors that will apply, made by anyone
10 (including my attorney) that are not contained within this written plea agreement, are null
11 and void and have no force and effect.

12 I am satisfied that my defense attorney has represented me in a competent manner.

13 I fully understand the terms and conditions of this plea agreement. I am not now
14 using or under the influence of any drug, medication, liquor, or other intoxicant or
15 depressant that would impair my ability to fully understand the terms and conditions of this
16 plea agreement.

17 04-28-2022
18 Date


19 RUBEN SEBASTIAN FELIX-ESACMILLA
20 Defendant

21 APPROVAL OF DEFENSE COUNSEL

22 I have discussed this case and the plea agreement with my client in detail and have
23 advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the
24 constitutional and other rights of an accused, the factual basis for and the nature of the
25 offense to which the guilty plea will be entered, possible defenses, and the consequences
26 of the guilty plea including the maximum statutory sentence possible. I have further
27 discussed the concept of the advisory Sentencing Guidelines with the defendant. No
28 assurances, promises, or representations have been given to me or to the defendant by the

United States or any of its representatives that are not contained in this written agreement. I concur in the entry of the plea as indicated above and that the terms and conditions set forth in this agreement are in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the requirements of Fed. R. Crim. P. 11.

I translated or caused to be translated this agreement from English into Spanish to the defendant on the 28th day of April, 2022.

4/28/2022
Date


CARLOS BROWN
Attorney for Defendant

UNITED STATES' APPROVAL

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth are appropriate and are in the best interests of justice.

GARY M. RESTAINO
United States Attorney
District of Arizona

TIMOTHY

COURCHAIINE

TIMOTHY COURCHAIINE
Assistant U.S. Attorney

Digitally signed by TIMOTHY
COURCHAIINE
Date: 2022.04.18 11:45:27
-07'00'

Date

COURT'S ACCEPTANCE

6/23/22
Date


HONORABLE JOHN Z. BOYLE
United States Magistrate Court Judge